

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Corrected Order

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QUANG LE, INDIVIDUALLY AND ON
BEHALF OF ALL OTHERS SIMILARLY
SITUATED,

Case No. 1:09-cv-8616 (JGK)

CLASS ACTION

Plaintiff,

v.

SPONGETECH DELIVERY SYSTEMS, INC.,
MICHAEL L. METTER, STEVEN MOSKOWITZ
FRANK LAZAUSKAS, AND RM ENTERPRISES
INTERNATIONAL, INC.,

Defendants.
-----X

JEFFREY P. ORLAN, INDIVIDUALLY AND ON
BEHALF OF ALL OTHERS SIMILARLY SITUATED,

CASE No.: 1:09-cv-9037 (JGK)

Plaintiff,

CLASS ACTION

v.

SPONGETECH DELIVERY SYSTEMS, INC.,
MICHAEL L. METTER, STEVEN MOSKOWITZ
FRANK LAZAUSKAS, AND RM ENTERPRISES
INTERNATIONAL, INC.,

Defendants.
-----X

~~PROPOSED~~ ORDER GRANTING THE MOTION OF THE
SULLIVAN LEAD PLAINTIFF GROUP, FOR CONSOLIDATION,
APPOINTMENT AS LEAD PLAINTIFFS AND APPROVAL
OF SELECTION OF LEAD COUNSEL

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DATE FILED: 5/12/10

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DATE FILED: 5/20/10

This matter having been brought to the Court upon the motion of Plaintiffs Patrick Sullivan, Dennis J. Fogell, and Lisa Fogell, and collectively, the "Sullivan Lead Plaintiff Group") for consolidation, appointment as lead plaintiffs and approval of selection of lead counsel; and the Court having considered the memorandum of law and declaration of Gary S. Graifman, in support thereof, and for good cause shown;

It is on this 12 day of ^{May, 2010}~~December~~, 2009, ORDERED as follows:

CONSOLIDATION

1. The Actions (as defined in the accompanying Memorandum of Law) and any other actions are hereby consolidated into one action (hereinafter, the "Consolidated Action") for all purposes, pursuant to Federal Rules of Civil Procedure 42. This Order (the "Order") shall apply as specified to the Consolidated Action and to each case that relates to the same subject matter that is subsequently filed in this Court or transferred to this Court and is consolidated with the Consolidated Action.

MASTER DOCKET AND MASTER FILES

2. A Master File is hereby established for this proceeding. The Master File shall be 1:09-CV-8616 (JGK). The Clerk shall file all pleadings in the Master File and note such filings on the Master Docket.

3. An original of this Order shall be filed by the Clerk in the Master File.

4. The Clerk shall mail a copy of this Order to counsel of record in the Consolidated Actions.

CAPTION OF THE CASE

5. Every pleading filed in the Consolidated Action shall have the following caption:

-----X	
IN RE SPONGETECH DELIVERY SYSTEMS,	:
INC. SECURITIES LITIGATION	:
-----X	

Civ Action No. 1:09-CV-8616 (JGK)

NEWLY-FILED OR TRANSFERRED ACTIONS

6. This Court requests the assistance of counsel in calling to the attention of the Clerk of this Court the filing or transfer of any case that might properly be consolidated as part of the Consolidated Action.

7. When a case that arises out of the same subject matter of the Consolidated Action is hereinafter filed in this Court or transferred from another Court, the Clerk of this Court shall:

- a. File a copy of this Order in the separate file for such action;
- b. Mail a copy of this Order to the attorneys for the plaintiff(s) in the newly-filed or transferred case and to any new defendant(s) in the newly-filed or transferred case; and
- c. Make the appropriate entry in the Master Docket for the Consolidated Action.

8. Each new case that arises out of the subject matter of the Consolidated Action which is filed in this Court or transferred to this Court, shall be consolidated with the Consolidated Action and this Order shall apply thereto, unless a party objects to consolidation, as provided for herein, or any provision of this Order, within ten (10) days after the date upon which a copy of this Order is served on counsel for such party, by filing an application for relief and this Court deems it appropriate to grant such application. Nothing in the foregoing shall be construed as a waiver of the defendants' right to object to consolidation of any subsequently-filed or transferred related action.

APPOINTMENT OF LEAD PLAINTIFFS AND LEAD COUNSEL

9. The following plaintiffs and class members are appointed lead plaintiffs pursuant to Section 21D (a)(3)(B) of the Securities Exchange Act of 1934 ("Exchange Act"): Patrick Sullivan, Dennis J. Fogell, and Lisa Fogell.

10. The law firm of Kantrowitz, Goldhamer & Graifman is hereby appointed as Lead Counsel for Plaintiffs and the Class.

11. With the approval of the Court, Lead Counsel shall assume and exercise the following powers and responsibilities:

- a. To coordinate the briefing and argument of motions;
- b. To coordinate the conduct of written discovery proceedings;
- c. To coordinate the examination of witnesses in depositions;
- d. To coordinate the selection of counsel to act as spokesperson at pre-trial conferences;
- e. To call meetings of the plaintiffs' counsel as they deem necessary and appropriate from time to time;
- f. To conduct all settlement negotiations with counsel for the defendants;
- g. To coordinate and direct the preparation for trial, and the trial of this matter and to delegate work responsibilities to selected counsel as may be required;
- h. To receive orders, notices, correspondence and telephones calls from the Court on behalf of all plaintiffs, and to transmit copies of such telephone calls to plaintiffs' counsel; and
- i. To supervise any other matters concerning the prosecution or resolution of the Consolidated actions.

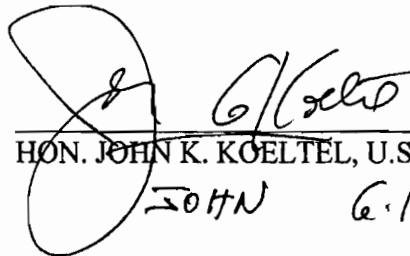
12. With respect to scheduling and/or procedural matters, defendants' counsel may rely upon all agreements with Lead Counsel.

13. No pleadings or other papers shall be filed or discovery conducted by any plaintiff except as directed or undertaken by Lead Counsel.

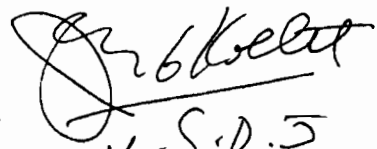
14. Counsel in any related action that is consolidated with the Consolidated Action shall be bound by this organizational structure of plaintiffs' counsel.

SERVICE OF PLEADINGS AND OTHER PARTIES

16. Service by the defendants on plaintiffs of any papers shall be deemed to be complete for all purposes when a copy is served on Lead Counsel.


 HON. JOHN K. KOELTEL, U.S.D.J.
 JOHN K. KOELTEL

Action 09 Civ. 9037 is
 dismissed without prejudice because
 it is consolidated with 09 CV 8616 and
 all filings should be in 09 Civ. 9038. 8616. *JK* 5/19/10

SO ordered
 5/12/10. 
 U.S.D.J.